

APPEAL NO. 040005
FILED FEBRUARY 17, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 13, 2003. The hearing officer decided that the respondent (claimant herein) sustained a compensable injury on _____, and had disability from March 25, 2003, continuing through the date of the CCH. The appellant (carrier herein) files a request for review in which it argues that the hearing officer's decision was contrary to the evidence. The claimant responds that the evidence sufficiently supports the decision of the hearing officer.

DECISION

The hearing officer's decision has become final pursuant to Section 410.169, because the carrier's appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

The applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), requires that an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. A party who wishes to appeal the decision and order must file a request for review not later than 15 days after the date on which the decision is received from the Commission's Division of Hearings, pursuant to Section 410.202(d), which was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods.

Records of the Commission show that the carrier received the hearing officer's decision on Friday, November 21, 2003. Thus, the carrier's request for review had to be sent to the Commission by December 16, 2003, and received by the Commission no later than Wednesday, December 23, 2003. The only request for review in the appeal file was mailed to the Commission. The postmark is illegible, but the certificate of service indicates that it was mailed to the claimant on December 30, 2003. In any case, the request for review was received by the Commission on January 5, 2004. Thus, while it appears that the carrier's request for review was not sent to the Commission within the 15-day time frame, it is clear that it was not received by the Commission within the 20-day time frame. The carrier's appeal is, therefore, untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer have become final under Section 410.169.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge